

Application Serial No.: 10/829,227
Reply to Office Action dated January 25, 2006,
and the Advisory Action dated April 4, 2006

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 9-13, 15-22, and 24-33 are presently active in this case. Claims 13, 15, 16, 19, 20, 22, 24-26, 31, and 32 have been allowed. Claims 27 and 28 have been amended by way of the present Amendment. Care has been taken such that no new matter has been entered.

Claims 9-12, 17, 18, 21, 29, and 30 have been withdrawn from consideration. The Official Action sets forth an Election of Species requirement, where Claims 9-12, 17, 18, 21, 29, and 30 were identified as a newly submitted species drawn to a shutter fitted within the developer outlet. The Official Action indicated that the originally presented species were drawn to a shutter provided completely outside the mouth member. The Advisory Action indicates that the original claims did not recite a shutter fitted within the developer outlet. However, the Applicants note that the originally presented Claim 9, for example, recited “a shutter member for closing the opening of said developer outlet when said shutter member is fitted *into* the opening.” (Emphasis added.) Currently Claim 9 recites “a shutter member for closing said developer outlet when said shutter member is fitted *within* said developer outlet.” (Emphasis added.) Thus, the Applicants submit that the originally presented claims covered the species presented in the withdrawn claims, and therefore a search of this species should have already been conducted. Accordingly, the Applicants traverse the Election of Species requirement based on MPEP § 803, which states:

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... If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Accordingly, the Applicants respectfully traverse the Election of Species requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, since a search of both species has already been conducted. Therefore, it is respectfully requested that the Election of Species requirement be withdrawn, and that a full examination on the merits of all of the claims be conducted.

In the outstanding Official Action, Claims 27, 28, and 33 were rejected under 35 U.S.C. 102(b) as being anticipated by Saito (U.S. Patent No. 5,150,162). For the reasons discussed below, the Applicants request the withdrawal of the anticipation rejection.

In the Office Action, the Saito reference is indicated as anticipating each of Claims 27, 28, and 33. However, the Applicants note that a claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference. As will be demonstrated below, the Saito reference clearly does not meet each and every limitation of independent Claims 27, 28, and 33.

Claims 27 and 28 of the present application advantageously recite a developer container comprising a shutter including a shutter member for closing a developer outlet when the shutter member is fitted to the developer outlet, and a member attached to the shutter member and configured to move the shutter member between an open position and a closed position, wherein all components of the shutter are provided completely outside of the mouth member. The Applicants respectfully request the withdrawal of the rejection of

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Claims 27 and 28 based on the Saito reference, since the Saito reference does not disclose such features.

The Official Action cites a packing (85) of the Saito reference for the teaching of the shutter member of the present application. The Applicants note that Claims 27 and 28 recite a shutter including a shutter member, and a member attached to the shutter member and configured to move the shutter member, wherein all components of the shutter are provided completely outside of the mouth member. Assuming for the sake of argument that the packing (85) is the shutter member of Claims 27 and 28, the Applicants submit that the packing (85) alone is not and cannot act as the *shutter* recited in Claims 27 and 28, which also includes a member attached to the shutter member and configured to move the shutter member. By itself, the packing (85) cannot act as a shutter and close the developer outlet. The packing (85) includes various other components that allow the packing to function, such as a screw (83) that is attached to the packing (85) and moves the packing (85). As is evident from the figures of the Saito reference, the screw (83) is provided within the lower portion of the toner hopper (81) and extends through the center of the tube (82). Accordingly, the Saito reference does not disclose *a shutter* as defined in Claims 27 and 28, *wherein all components of the shutter are provided completely outside of the mouth member*.

Thus, the Applicants respectfully request the withdrawal of the anticipation rejection of Claims 27 and 28 of the present application.

Claim 33 advantageously recites a developer container comprising, among other features, a storing member, a mouth member having a developer outlet, and a shutter member for closing the developer outlet when the shutter member is fitted to the developer outlet. A

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developer inlet to the mouth member is formed in the direction of gravity, and the developer outlet is formed at an angle to the direction of gravity. The Applicants respectfully request the withdrawal of the rejection of Claim 33 based on the Saito reference, since the Saito reference does not disclose such features.

The Official Action cites a flexible sheet (95) depicted in Figures 11 and 12 as the shutter member of Claim 33. The Official Action indicates that flexible sheet (95) is capable of closing the outlet of sleeve (84), which appears to be cited in the Official Action as the developer outlet since it is formed at an angle to the direction of gravity. In the Request for Reconsideration, the Applicants noted that the flexible sheet (95) is not a shutter member for closing the developer outlet when the shutter member is fitted to the developer outlet. The flexible sheet (95) of the Saito reference cannot in any manner be fitted to the outlet of sleeve (84), as recited in Claim 33.

The Advisory Action appears to suggest that the outlet (92) in Figure 12 is being cited as the developer outlet recited in Claim 33. However, the Applicants note that Claim 33 clearly recites that the developer outlet “is formed at an angle to the direction of gravity.” The outlet (92) depicted in Figure 12 of the Saito reference is not formed at an angle to the direction of gravity, but rather is formed in the direction of gravity. Thus, the Applicants submit that outlet (92) of the Saito reference cannot be cited for the teaching of the developer outlet of Claim 33. In fact, the Applicants submit that the Saito reference does not disclose any shutter member for closing the developer outlet when the shutter member is fitted to the developer outlet, where the developer outlet is formed at an angle to the direction of gravity, with all the other features recited in Claim 33.

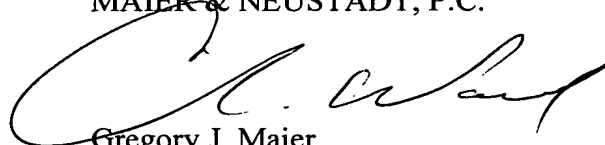
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Accordingly, the Applicants respectfully request the withdrawal of the anticipation rejection of Claim 33 of the present application.

Consequently, in view of the above discussion, it is respectfully submitted that the present application is in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully Submitted,

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